

REMARKS

By this amendment, claims 1 and 21 have been amended. Claim 19 was previously canceled. Claims 1-18 and 20-22 remain in the application. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, and allowance of the application, is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 1-18 and 20-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Gutta et al. (WO 02/071315, hereinafter "**Gutta**") in view of Liu (US 6,553,281, hereinafter "**Liu**") and Jeong (US 6,348,928, hereinafter "**Jeong**"). With respect to claim 1, Applicant respectfully traverses this rejection on the grounds that the **Gutta**, **Liu** and **Jeong** references are defective in establishing a prima facie case of obviousness.

Independent claim 1, as now presented, more clearly recites, inter alia, "a confusion warning notice ... *in response to monitoring a change ... that causes the device to confuse the subject* ... wherein *an orientation of an image* displayed via the device would ... *change in a manner to confuse the subject*" (emphasis added). Support for the amendments to claim 1 (as well as for claim 21) can be found in the specification at least on page 10, lines 10-15. As amended, the claimed embodiment is highly desirable for a surgeon performing a medical procedure and, in particular, with respect to the surgeon's hands or with respect to an instrument during surgery (page 10, line 1), and to avoid confusion with respect displayed images during the medical procedure or surgery. The amendments are supported by the specification and drawings as originally filed, thus no new matter has been introduced.

Applicant submits that neither **Gutta**, **Liu** nor **Jeong** discloses at least the aforementioned specific feature limitation of independent claim 1. In particular, it is submitted that the tertiary citation to **Jeong** does not disclose the claimed specific

feature limitation of a confusion warning notice ... *in response to monitoring a change ... that causes the device to confuse the subject* ... wherein *an orientation of an image displayed via the device would ... change in a manner to confuse the subject*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of **Gutta**, **Liu** and **Jeong** is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action concedes that **Gutta** fails to particularly disclose a confusion warning notice is displayed on a screen for *certain changes* (emphasis added, Office Action, page 4, dated 8/18/10). Nonetheless, the Office Action contends that the tertiary citation to **Jeong** provides this necessary disclosure. (Office Action, page 4, dated 8/18/10). As will be explained further herein below, this contention that **Jeong** provides necessary disclosure is respectfully traversed.

Jeong relates to an apparatus for automatically rotating a visual display unit (Jeong, abstract). **Jeong** discloses a *warning message* generation unit 50 that generates a warning message if a body temperature of the viewer is not sensed (Jeong, FIG. 2 and Col. 3, lines 32-35). In addition, the “*warning message ... is outputted through the sound processing unit ... the light unit ... or the on-screen display unit*” (Jeong, Col. 3, lines 49-51). However, in view of **Jeong**’s use of a warning message produced if a body temperature of the viewer is not sensed as discussed above and in **Jeong**, it is respectfully submitted that such a *warning message* cannot reasonably be understood to read on the specific feature limitation of “a confusion warning notice ... *in response to monitoring a change ... that causes the device to confuse the subject* ... wherein *an orientation of an image displayed via the device would ... change in a manner to confuse the subject*” as is recited in claim 1. Thus, **Jeong** does not provide a disclosure that teaches the aforementioned specific feature limitation of independent claim 1, nor does **Jeong** remedy the aforementioned, conceded deficiency in the primary citation to **Gutta** in view of **Liu**.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claim 1 under 35 U.S.C. §103 are respectfully requested. Claims 2-18 and 20 depend from and further limit independent claim 1 and therefore are allowable as well. The 35 U.S.C. §103(a) rejection thereof is now believed overcome.

Claim 21 has been amended in a manner similar to the amendments to claim 1. Accordingly, for similar reasons as stated with respect to overcoming the rejection of claim 1, claim 21 is believed allowable and an early formal notice thereof is requested. Claim 22 depends from and further limits independent claim 21 and therefore is allowable as well. The 35 U.S.C. §103(a) rejection thereof has now been overcome. Withdrawal of the rejection is respectfully requested.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application. In addition, the Office Action contains a number of statements characterizing the claims and the prior art. Regardless of whether such statements are addressed by Applicant, Applicant refuses to subscribe to any of these statements, unless expressly indicated by Applicant.

It is clear from all of the foregoing that independent claims 1 and 21 are in condition for allowance. Claims 2-18 and 20 depend from and further limit independent claim 1 and therefore are allowable as well. Claim 22 depends from and further limits independent claim 21 and therefore is allowable as well.

The matters identified in the Office Action of August 18, 2010 are now believed resolved. Accordingly, the application is believed to be in proper condition for allowance. The amendments herein are fully supported by the original specification and drawings; therefore, no new matter is introduced. Issuance of an early formal notice of allowance of claims 1-18 and 20-22 is respectfully requested.

Respectfully submitted,

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